

AGREEMENT

Between

THE TOWN OF WEST SENECA, NEW YORK

And

THE WEST SENECA POLICE BENEVOLENT ASSOCIATION

Effective

January 1, 2017

To

December 31, 2020

ARTICLE 1.....	6
SECTION 1.1 – RECOGNITION .....	6
SECTION 1.2 – PROHIBITION OF STRIKES.....	6
ARTICLE 2.....	7
SECTION 2.1 – MANAGEMENT RIGHTS .....	7
ARTICLE 3.....	7
SECTION 3.1 – NON-DESCRIMINATION .....	7
SECTION 3.2 – DUES CHECK-OFF .....	7
SECTION 3.3 – AGENCY SHOP .....	7
ARTICLE 4.....	8
SECTION 4.1 – GRIEVANCE PROCEDURE.....	8
SECTION 4.2 – RECOURSE TO OTHER FORUMS.....	9
SECTION 4.3 – GRIEVANCE REPRESENTATIVES.....	9
SECTION 4.4 – UTILIZATION OF THE GRIEVANCE PROCEDURE.....	9
SECTION 4.5 – TIME LIMITS.....	9
ARTICLE 5.....	9
SECTION 5.1 – SENIORITY.....	9
SECTION 5.2 – SENIORITY IN RANK.....	10
SECTION 5.3 – SENIORITY LIST .....	10
SECTION 5.4 – LAY-OFF.....	10
SECTION 5.5 – SENIORITY OF DETECTIVES .....	10
ARTICLE 6.....	10
SECTION 6.1 – WORK DAY AND WORK WEEK .....	10
SECTION 6.2 – WORK SCHEDULE.....	11
SECTION 6.3 – COMPENSATORY DAYS OFF.....	11
ARTICLE 7.....	11
SECTION 7.1 – SALARIES.....	11
SECTION 7.2 – DAILY AND HOURLY RATES .....	12
SECTION 7.3 – OVERTIME.....	12
SECTION 7.4 – LONGEVITY PAY.....	12
SECTION 7.5 – HOLIDAY PAY .....	13
SECTION 7.6 – PROMOTIONAL PAY.....	13
SECTION 7.7 – COURT PAY .....	13

SECTION 7.8 – IN-SERVICE TRAINING .....	14
SECTION 7.9 – TRAINING .....	14
SECTION 7.10 – TUITION .....	16
SECTION 7.11 – OUT-OF-RANK PAY .....	16
SECTION 7.12 – PAYMENT OF COURT PAY AND OVERTIME PAY .....	17
SECTION 7.13 – EDUCATION INCENTIVE PAY .....	17
SECTION 7.14 – SHIFT PREMIUM AND WEEKEND PREMIUM.....	177
SECTION 7.15 – USE OF COMPENSATORY TIME OFF .....	18
SECTION 7.16 – SPECIAL UNITS.....	18
SECTION 7.17 – ATTENDANCE INCENTIVE .....	18
ARTICLE 8 – LEAVES OF ABSENCE .....	19
SECTION 8.1 – BEREAVEMENT LEAVE.....	19
SECTION 8.2 – ACCUMULATED SICK TIME .....	19
SECTION 8.3 – SICK BANK .....	19
SECTION 8.4 – SICK LEAVE UPON RETIREMENT .....	21
SECTION 8.5 – GENERAL MUNICIPAL LAW .....	23
SECTION 8.6 – PERSONAL LEAVE.....	29
SECTION 8.7 – MATERNITY LEAVE.....	30
SECTION 8.8 – JURY DUTY .....	30
ARTICLE 9 – DISCIPLINE.....	30
SECTION 9.1 – RECORD OF DISCIPLINE .....	30
SECTION 9.2 – UNFOUNDED COMPLAINTS .....	30
SECTION 9.3 – CITIZEN’S COMPLAINTS .....	31
SECTION 9.4 – DISCIPLINE.....	31
ARTICLE 10 – VACATIONS.....	31
SECTION 10-1 – ANNUAL VACATION.....	31
SECTION 10.2 – VACATION SCHEDULING .....	32
SECTION 10.3 – ACCUMULATED VACATION .....	32
SECTION 10.4 – VACATION PAY ADVANCE .....	32
SECTION 10.5 – ONE-DAY VACATION.....	32
SECTION 10.6 – LIEUTENANTS’ SUMMER VACATION.....	32
SECTION 10.7 – PAY FOR VACATION.....	33
ARTICLE 11 – INSURANCE.....	33
SECTION 11.1 – HEALTH INSURANCE.....	33
SECTION 11.2 – HEALTH INSURANCE UPON RETIREMENT .....	36
SECTION 11.3 – HEALTH INSURANCE FOR DEPENDANTS.....	38
SECTION 11.4 – LIABILITY OF POLICE OFFICER FOR NEGLIGENCE .....	38
SECTION 11.5 – PUNITIVE DAMAGES .....	38

ARTICLE 12 – RETIREMENT BENEFITS.....	39
SECTION 12.1 – RETIREMENT PLANS.....	39
SECTION 12.2 - DEATH BENEFITS.....	39
SECTION 12.3 – SECTION 457 PLAN.....	39
SECTION 12.4 – FLEXIBLE SPENDING ACCOUNTS .....	39
SECTION 12.5 – PRIOR SERVICE CREDIT.....	39
ARTICLE 13 – VACANCIES.....	39
SECTION 13.1 – TRANSFERS AND ASSIGNMENTS .....	39
SECTION 13.2 – NEW CLASSIFICATIONS.....	40
SECTION 13.3 – NON-CIVIL SERVICE VACANCIES .....	40
SECTION 13.4 – CIVIL SERVICE VACANCIES .....	40
SECTION 13.5 – CIVILIANIZATION OF DESK LIEUTENANT POSITIONS.....	40
ARTICLE 14 – MISCELLANEOUS PROVISIONS.....	41
SECTION 14.1 – EXPENSES.....	41
SECTION 14.2 – POSTING OF SCHEDULES.....	41
SECTION 14.3 – SPECIAL HOLIDAY .....	41
SECTION 14.4 – DESK OFFICERS.....	41
SECTION 14.5 – BILL OF RIGHTS .....	41
SECTION 14.6 – LABOR MANAGEMENT COMMITTEE .....	42
SECTION 14.7 – OFF-DUTY EMPLOYMENT POLICY.....	43
ARTICLE 15 – UNIFORMS.....	43
SECTION 15.1 – UNIFORM ALLOWANCE.....	43
ARTICLE 16 – UNION RIGHTS .....	43
SECTION 16.1 – CLUB OFFICERS .....	43
SECTION 16.2 – OTHER MEETINGS .....	43
SECTION 16.3 – STATE CONVENTIONS.....	44
SECTION 16.4 – UNION LEAVE TIME.....	44
SECTION 16.5 – BULLETIN BOARDS.....	44
SECTION 16.6 – HEALTH AND WELFARE LEAVE TIME .....	44
SECTION 16.7 – NOTICE OF ABSENCE.....	44
ARTICLE 17 – SHOOTING .....	45
ARTICLE 17.1 – SHOOTING TIME .....	45
ARTICLE 18 – RESIDENCY .....	45

SECTION 18.1 – RESIDENCY .....	45
ARTICLE 19 – TERMS OF AGREEMENT.....	45
SECTION 19.1 – CONFLICTS .....	45
SECTION 19.2 – SEPARABILITY .....	45
SECTION 19.3 – RENEWAL OF AGREEMENT .....	45
SECTION 19.4 – EFFECTIVE DATES.....	46
SECTION 19.5 – CONTINUATION OF TERMS.....	46

THIS AGREEMENT, made January 1, 2017 by and between the Town of West Seneca, hereafter referred to as the “Town”, “Management” or the “Board” and the West Seneca Police Benevolent Association, Inc., hereafter referred to as the “Club”;

WHEREAS, the parties, hereto, desire to provide, through this agreement, methods for the orderly collective bargaining between the Town and the Club, to secure prompt and equitable disposition of grievances that may arise, to establish fair wages and working conditions for police personnel in the negotiating unit and to promote, to the highest degree, efficiency in providing services to the public, and

WHEREAS, this agreement has been negotiated pursuant to the provisions of the Public Employees Fair Employment Act and is governed by the provisions of New York State Law and also non-conflicting local laws of the Town, and

WHEREAS, ‘IT IS AGREED BY AND BETWEEN THE PARTIES THAT ANY PROVISIONS OF THIS AGREEMENT REQUIRING LEGISLATIVE ACTION TO PERMIT ITS IMPLEMENTATION BY AMENDMENT OF LAW OR BY PROVIDING THE ADDITIONAL FUNDS THEREFORE, SHALL NOT BECOME EFFECTIVE UNTIL THE APPROPRIATE LEGISLATIVE BODY HAS GIVEN APPROVAL’.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the Town and the Club, through their duly authorized representatives, agree as follows:

## **ARTICLE 1**

### **SECTION 1.1 – RECOGNITION**

The Town recognizes the Club as the sole and exclusive representative and bargaining agent for all full time police personnel in the negotiating unit defined below. Such personnel shall be, hereinafter, referred to as police officer or police officers.

All police officers employed by the Town, pursuant to the New York State Civil Service Law, but not including the Chief of Police or the Assistant Chief of Police. The Town agrees to recognize the Club until the expiration of this agreement and agrees not to negotiate with any other organization, on behalf of police officers, other than the Club for the duration of this agreement.

### **SECTION 1.2 – PROHIBITION OF STRIKES**

The employee organization agrees that it adheres to the provisions contained in Section 210 of the New York State Civil Service Law prohibiting strikes. It further agrees it shall not engage in a strike and it shall not cause, instigate, encourage or condone a strike.

## **ARTICLE 2**

### **SECTION 2.1 – MANAGEMENT RIGHTS**

Unless expressly limited by other provisions of this agreement, all of the authority, right and responsibilities, possessed by the Town, are retained by it, including, but not limited to, the right to determine the mission, purposes, objectives, and policies of the Board; to determine the facilities for the conduct of the board programs, to administer the examination, recruitment, hiring, appraisal, training, retention, promotions, assignments or transfer of employees, pursuant to law; to direct, deploy and utilize the work forces; to establish specifications for each class of positions and to classify or reclassify and to allocate or reallocate new or existing positions in accordance with law and the provisions of this agreement. Provided, however, that in the exercise of such functions, the Town Board shall observe the provisions of this agreement and, provided further, that any action taken by the Town Board, hereunder, insofar as it may effect on “terms and conditions of employment” of police officers, shall be review able under the grievance procedure provided in this agreement.

## **ARTICLE 3**

### **SECTION 3.1 – NON-DISCRIMINATION**

Both parties agree there will be no discrimination against any police officer and that all officers, covered by this agreement, shall receive the full protection of the provisions herein, and that all employment, promotion, upgrading, demotion and termination shall be accomplished without regard to political persuasion.

### **SECTION 3.2 – DUES CHECK-OFF**

The Town, upon request of the Club, shall deduct from the wages of all police officers and remit, regularly, to the Club, membership dues for those police officers that sign authorization cards permitting payroll deduction. The form of the authorization cards shall be mutually agreed upon by the Town and the Club.

### **SECTION 3.3 – AGENCY SHOP**

Any present or future employee, represented by the Club, who is not a union member and who does not make application for membership, shall have deducted from his wage or salary, an amount equivalent to the dues levied by the Club. The Town shall make such deductions and transmit the sum, so deducted, to the Club, provided the Club has established and maintains a procedure providing for the refund, to any employee demanding the return, of any part of an agency shop fee deduction which represents the officer’s pro rata share of expenditures by the Club in aid of activities or causes only incidentally related to terms and conditions of employment.

## ARTICLE 4

### SECTION 4.1 – GRIEVANCE PROCEDURE

A grievance under this article shall mean: Any claim by a police officer or group of police officers, in the negotiating unit, of a violation, misinterpretation or an inequitable application of existing laws, rules, procedures, regulations, administrative orders or work rules of the department or any provision of this agreement.

STEP 1: Any police officer, believing (s)he has a grievance may present it, in writing, to his/her immediate supervisor within 30 days of the occurrence and attempt to adjust the matter. Within five calendar days of the written presentation of the grievance, the Supervisor shall respond to the grievance in writing. If the grievance is not satisfactorily adjusted, the police officer may request that a representative of the Club meet with the immediate supervisor and the aggrieved officer for the purpose of attempting to adjust the matter.

STEP 2: If the grievance is not satisfactorily adjusted under Step 1, within five calendar days of the response to the grievance or the date upon which the answer is due, the Club representative may forward the grievance to the Club's Grievance Committee. After review of the grievance, the Club will forward a copy of the grievance to the Chief of Police within five calendar days of receipt by the Grievance Committee. The Chief of Police or designee will, within seven days, discuss the matter with the Club President or designee in an attempt to satisfactorily settle the grievance.

STEP 3: Should the discussion in Step 2 fail to produce a satisfactory settlement within five days, a written report of the dispute shall be made, by the Club President or designee and the report will be forwarded, within five calendar days, to the Town Board or its representative. The Town Board, or its representative, shall discuss the grievance with the Grievance Committee within 15 days of receipt of the written report.

STEP 4: In the event the grievance is not satisfactorily settled within the time as set forth in Step 3, either party may take the matter to arbitration by serving written notice to the other party of an intention to do so. The notice shall be served within 30 calendar days after the close of the discussion. If neither party files such a notice the matter shall be considered closed and not subject to further review.

The arbitration proceedings shall be conducted by an arbitrator to be selected by the Town Board and the Club within 30 calendar days after notice has been given and from a panel of arbitrators supplied by the New York State Public Employment Relations Board.

The decision of the arbitrator shall be final and binding on both parties and the arbitrator shall issue his/her decision within 30 calendar days after the conclusion of testimony and argument. The arbitrator shall not have power to amend, modify or delete any provision of the Agreement. Expenses of arbitration services and the proceedings shall be



borne equally by the Town and the Club. However, each party shall be responsible for compensating its own representatives and witnesses. Police officers who appear during work hours will not suffer loss of salary. If either party desires a record of the proceedings it may cause such a record to be made at its own expense and it must provide a copy of the record to the other party and to the arbitrator, without charge.

#### SECTION 4.2 – RECOURSE TO OTHER FORUMS

In the event a grievance concerns an alleged breach of this Agreement or misinterpretation or application of any of its' terms, the grievance procedure, herein set forth, shall first be exhausted by a police officer or by the Town Board, before recourse to any other procedure or remedy in another forum.

#### SECTION 4.3 – GRIEVANCE REPRESENTATIVES

Two Grievance Committee members may be permitted to leave their work, after requesting permission from their respective supervisors, for the purpose of adjusting grievances and to attend the required meetings with the Chief of Police or the Town Board or its representatives. Such permission shall not unreasonably be withheld.

#### SECTION 4.4 – UTILIZATION OF THE GRIEVANCE PROCEDURE

The parties agree that either party to this Agreement, and any dispute, which the Town Board may have with the Club or with an employee may be presented by the Town Supervisor, the Chief of Police or their representatives to the Club Grievance Committee at Step 3 of the grievance procedure, herein, may utilize the grievance procedure.

#### SECTION 4.5 – TIME LIMITS

The failure of the Club or any police officer to take any action authorized by the grievance procedure within the time limits, therefore, shall constitute a waiver of the right to proceed on the grievance. The time limits contained in the grievance procedure may be extended by mutual agreement, in writing. The parties may, by agreement, agree to bypass any of the steps of the grievance procedure.

### **ARTICLE 5**

#### SECTION 5.1 – SENIORITY

Police officers will acquire seniority status upon the completion of the probationary period and seniority will be based upon uninterrupted service in the Town Police Department from the date of hiring. Seniority will be broken if a police officer leaves active service, for any period of time, except for authorized sick leave, military leave or authorized leave of absence. When more than one police officer is appointed on the same date, the officers' position on the Civil Service List will govern.

## SECTION 5.2 – SENIORITY IN RANK

Seniority within rank shall be determined from date of promotion to that rank. In the event more than one officer is promoted to that rank on the same date, then position on the Civil Service List from which the officers were promoted to that rank will govern.

## SECTION 5.3 – SENIORITY LIST

An up-to-date seniority list, including all police officers in the department, by rank and seniority, will be made available to all police officers.

## SECTION 5.4 – LAY-OFF

In the event of a lay-off, appointment date and position on the Civil Service List will be the means of determining the police officers to be laid-off beginning with the last appointee first.

## SECTION 5.5 – SENIORITY OF DETECTIVES

Seniority of detectives, during the period of appointment, shall be determined by date of appointment as detective, and where appointments are made on the same date, position on the Departmental Seniority List will determine. Seniority shall control with respect to the scheduling of work, vacations, holidays and personal leave, provided the Department's functioning is not placed in jeopardy.

However, when there is a need to call in a detective who is assigned to a particular investigation, or to call in a detective who possesses a particular skill, this seniority requirement will not apply.

## **ARTICLE 6**

### SECTION 6.1 – WORK DAY AND WORK WEEK

The Chief of Police shall not assign any patrol officer who may be on duty in the open air, on the streets or any public place, to more than one tour of duty. Such tour of duty shall not exceed eight consecutive hours and no patrol officer shall be assigned to more than 40 hours of duty during any seven consecutive day periods except in an emergency or for the purpose of changing tours of duty.

The workweek shall begin on a Sunday and end the following Saturday.

SECTION 6.2 – WORK SCHEDULE

Effective as soon as possible after January 1, 2001, the normal work schedule for officers regularly assigned to patrol duties and to officers working in dispatch shall be a rotation of four (4) days on and two (2) days off, then five (5) days on and two (2) days off, then four (4) days on and two (2) days off, and so on. All other bargaining members shall work a five (5) days on and two (2) days off schedule. However, such officers shall, after completion of thirteen (13) weeks of a 5 – 2 schedule, be credited with two (2) compensatory days off. These compensatory days off must be used in the following thirteen (13) week period or they will be lost.

These work schedules shall not prohibit variations to allow attendance at authorized schools and seminars and to allow compliance with the manning needs of the Department as determined by the Chief of Police.

SECTION 6.3 – COMPENSATORY DAYS OFF

1. All officers shall receive three compensatory days off per year. These days must be used in the year that the Town provided them or they shall be lost. These days may not be cashed in, sold back to the Town, or converted to another form of leave. These compensatory days off may only be used at the sole and exclusive, non-review able discretion of the Chief. These compensatory days off are subject to the limits on accumulations set forth in Section 7.15 of this Agreement.
2. Effective January 1, 2003, all officers shall receive two (2) additional compensatory days off per year. These days must be used in the year that the Town provided them or they shall be lost. These days may not be cashed in, sold back to the Town, or converted to another form of leave. These compensatory days off may only be used at the sole and exclusive, non-review able discretion of the Chief. These compensatory days off are subject to the limits on accumulations set forth in Section 7.15 of this Agreement.

**ARTICLE 7**

SECTION 7.1 – SALARIES

Salary increases shall be as follows:

<b>EFFECTIVE DATE</b>	<b>INCREASE</b>
January 1, 2017	2.50%
January 1, 2018	2.50%
January 1, 2019	2.25%
January 1, 2020	2.25%

Police officers will be paid on a bi-weekly basis, on alternate Thursdays and one week's salary shall be held back from each officer.

Every police officer hired by the Town on or after January 1, 2012 shall be paid at the Trainee rate until the police officer graduates from the academy.

Effective January 1, 2012, the Trainee rate shall be \$21.00.

For each year following 2012, the Trainee rate shall increase by the same percentage agreed to for non-trainees.

#### SECTION 7.2 – DAILY AND HOURLY RATES

The daily rate of pay shall be obtained by dividing the basic annual salary by 251. The hourly rate of pay shall be obtained by dividing the daily rate of pay by 8.

#### SECTION 7.3 – OVERTIME

Police officers who are required to work beyond a regular eight (8) hour shift or beyond a regular 40 hour week shall be paid for such overtime at the rate of time and one-half, or at the election of the officer, compensatory time off at the rate of time and one half. Overtime will be paid in one half-hour increments. This compensatory time off may only be used at the sole and exclusive, non-review able discretion of the Chief. Compensatory time off must be used in the year in which it is earned. Police officers who are required to work and whom actually work on a holiday shall be paid at the rate of time and one-half for the first eight (8) hours worked on the holiday and double time for hours worked in excess of eight (8) hours on the holiday. An officer who is absent, for any reason, on a holiday will only be compensated in accordance with Section 7.5.

#### SECTION 7.4 – LONGEVITY PAY

Each police officer shall be entitled to non-cumulative longevity pay, which sum shall be paid within 30 days of the officers' anniversary date or the first pay period in December, at the option of the Town, provided the same is permitted by Law:

<b>TIME OF SERVICE</b>	<b>AMOUNT</b>
After <b>5</b> Years	\$1,250
After <b>10</b> Years	1,400
After <b>15</b> Years	1,600
After <b>20</b> Years	2,075
After <b>25</b> Years	2,250

Each police officer shall be paid, in a separate check, for longevity pay.

SECTION 7.5 – HOLIDAY PAY

In addition to basic annual salary, each police officer shall be given compensatory time off, or the value of 12 holidays. An officer, upon written notice to the Chief given between December 1<sup>st</sup> and December 10<sup>th</sup> of each year, may elect to take cash in lieu of up to twelve (12) Holidays. Payment shall be made in a separate check during the second or last pay check in December of that year. If an officer's employment is terminated, for any reason, the officer will be paid for the value of all holidays, which occurred prior to the date of termination.

The holidays shall be:

NEW YEARS DAY	JULY 4 <sup>TH</sup>
MARTIN LUTHER KINGS BIRTHDAY	LABOR DAY
PRESIDENT'S DAY	COLUMBUS DAY
GOOD FRIDAY	VETERAN'S DAY
EASTER SUNDAY	THANKSGIVING DAY
MEMORIAL DAY	CHRISTMAS DAY

In addition, the Town shall pay, to each police officer, on or about December 1st, each year, in lieu of a holiday for the employee's birthday, a sum of money equal to the officer's daily rate of pay.

In the event an officer has unused compensatory holiday time, standing to the officer's credit, on December 31st, the police officer shall be paid for said unused holiday time by January 31<sup>st</sup>, at the prevailing rate which was in effect on the previous December 31<sup>st</sup>.

SECTION 7.6 – PROMOTIONAL PAY

Upon promotion to a higher pay classification or position a police officer shall receive the salary rate of the higher classification immediately.

SECTION 7.7 – COURT PAY

A police officer who is required to make a court appearance at a time other than the officer's regularly scheduled work hours shall be paid at the rate of the officer's regular hourly pay, or at the election of the officer, compensatory time off at the officer's regular rate. This compensatory time off may only be used at the sole and exclusive, non-review able discretion of the Chief. Compensatory time off must be used in the year in which it is earned.

If the court appearance is before a local court (Town Court), the officer shall receive minimum pay of three hours. If such appearance is out of the Town, the officer shall receive a minimum of four hours pay.

In addition, when an officer is required to use the officer's own motor vehicle, outside of the Town, the officer shall be paid at the prevailing rate per mile as established by the Town Board.

#### SECTION 7.8 – IN-SERVICE TRAINING

Police officers who are required to attend in-service training shall be compensated for such time at the regular rate of pay.

#### SECTION 7.9 – TRAINING

It is agreed that training opportunities for members of the West Seneca Police Department will be offered as follows:

- A. The Town may permit all members of the Police Department to attend educational opportunities. Officers who attend will be granted time off from regular duty and will be compensated for all expenses incurred, including tuition, books, materials and travel expenses.

Consideration of department training and selection will be based upon the following, with training being considered as general and specialized with criteria for each as listed below:

#### **B. GENERAL TRAINING COURSES**

##### **1. General training opportunities of one (1) day or less:**

- a. opportunities will be posted for interest
- b. selection of these training opportunities will be by seniority on a rotational basis, with the officer last attending placed at the bottom of a list for future opportunities
- c. if there are any pre-requisites required to attend this training, an officer who has such will be given preference. If more than one officer possesses a required pre-requisite, the qualified officer with the most seniority will be selected.

##### **2. General training opportunities of more than one (1) day:**

- a. opportunities will be posted for interest

- b. selection will be based upon qualifications established by the Chief of Police, needs of the department and all else being equal, seniority
- c. selection to these training opportunities will be rotational, with the officer last attending being placed at the bottom of a list for future opportunities
- d. if there are any pre-requisites required to attend this training, an Officer who has such will be given preference. If more than one Officer possesses a required pre-requisite, the qualified Officer with the most seniority will be selected.

### **C. SPECIALIZED TRAINING COURSES**

**Defined: That which relate to a position in the Police Department, which provides a monetary benefit (2.5%) during actual duties as per CBA**

#### **1. Specialized training opportunities (for selection to the position):**

- a. opportunities will be posted for officer interest
- b. selection will be based on qualifications established by the Chief of Police, need and all else being equal, seniority
- c. if there are any pre-requisites required to attend this training, an officer who has such will be given preference. If more than one officer possesses a required pre-requisite, the qualified officer with the most seniority will be selected
- d. it is understood that officers selected for such training to a specialized position must be able to perform the duties of the particular position without other departmental positional conflicts

#### **2. Specialized training opportunities (for members of a particular position):**

- a. opportunities will be posted or submitted to those officers in the position for officer interest
  - b. selection will be based upon qualifications established by the Chief of Police, needs of the department and all else being equal, seniority
  - c. selection to these training opportunities will be rotational, with the officer last attending being placed at the bottom of a list for future opportunities
- D. In no event shall an officer's attendance at a training course outside of the County of Erie result in the payment of any overtime to the officer. The Town will compensate officers who attend training courses inside Erie County for all hours spent in the training course: Section 7.3 of this Agreement shall apply in this situation. The Town will continue to compensate officers for travel to training courses located outside of Erie County consistent with the Fair Labor Standards Act.

SECTION 7.10 – TUITION

The Town will pay the full cost of tuition, books and other expenses for police officers that are authorized to attend school or seminars related to police work.

SECTION 7.11 – OUT-OF-RANK PAY

When a vacancy of a higher rank exists the Town may fill the vacancy, which will be filled by the senior patrol officer assigned to work on the shift in which the vacancy exists.

It is understood that:

1. In order to qualify for the assignment, the senior officer must be available to fill the vacancy for the entire portion of the shift during which the vacancy will exist;
2. If the vacancy exists for less than four (4) hours due to authorized time-off, the officer who fills the vacancy will not be paid any additional compensation;
3. If the vacancy exists for four (4) hours or more, or if it arises due to illness, the officer or officers who are assigned to fill the vacancy will be compensated at the rate of pay for that job on a time-worked basis.



4. When the Town fills a temporary vacancy in the Patrol Lieutenant classification it may assign the senior officer (desk lieutenant or patrol officer) on duty to the position.

SECTION 7.12 – PAYMENT OF COURT PAY AND OVERTIME PAY

Overtime pay and Court pay shall be paid to each officer in the next pay period following the pay period in which it is earned.

SECTION 7.13 – EDUCATION INCENTIVE PAY

Effective January 2017, each police officer who attends, or who has attended college, shall receive educational incentive payments, annually, as follows:

1. \$500.00 a year to a police officer who has an Associate Art or Associate Science Degree (two year program); or
2. \$1000.00 a year to a police officer who has a Bachelor of Arts or a Bachelor of Science Degree (four year program); or
3. \$5.00 per college credit hour, up to a maximum of one hundred (100) credit hours.

Educational incentive pay shall be paid in the first pay period in July of each year.

Effective January 2018, educational incentive payment will be increased at the same rate of increase as that of annual salary as compared to the prior year.

SECTION 7.14 – SHIFT PREMIUM AND WEEKEND PREMIUM

Agreement effective at the start of the pay period following ratification and legislative approval as follows:

<b>WEEK DAYS</b>		<b>WEEK ENDS</b> (Friday from 4:00 PM to Sunday, Midnight)	
4PM - 12AM	\$.40	8AM - 4PM	\$.50
12AM - 8AM	\$.60	4PM - 12AM	\$.55
		12AM - 8AM	\$.95

#### SECTION 7.15 – USE OF COMPENSATORY TIME OFF

Any compensatory time off from overtime or court time that is not used by December 31<sup>st</sup> of each year will be paid by the Town; however, each officer shall have the option of banking up to sixteen (16) hours of compensatory time off to be used in the following calendar year. An officer may have a maximum of fifty six (56) hours of total compensatory time off in the months of January through April; however, by May 1<sup>st</sup> of each year no officer may have more than forty (40) hours of total compensatory time off from all sources.

#### SECTION 7.16 – SPECIAL UNITS

Officers assigned to special units specifically created and conducted by the West Seneca Police Department, such as the Motorcycle Officer, DARE, Field Training Officers, School Resource Officers, officers assigned to Training, and Officers assigned to the Accident Investigation Unit shall be paid a premium of two and one-half percent (2.5%) of their standard hourly rate for each hour worked in that capacity. Officers assigned to the Honor Guard shall be paid a premium of two and one-half percent (2.5%) of their standard hourly rate for each hour worked in that capacity in non-overtime situations. (Officers are not entitled to receive any premium for time worked as part of the Honor Guard during overtime situations.) It is agreed and understood that no premium shall be paid for time spent in training for these assignments. In no event shall an officer “acting” in a special unit capacity be eligible to receive the premium. In the event that an FTO is not available: When two Lieutenants are on duty, the Town will assign a new officer to ride with one of the Lieutenants; if two Lieutenants are not on duty, the new officer will be assigned to desk duty

#### SECTION 7.17 – ATTENDANCE INCENTIVE

Commencing January 1, 2007, any officer who does not use sick time from January 1<sup>st</sup> through June 30<sup>th</sup> shall receive an incentive payment of \$250 **OR** four (4) hours of compensatory time; any officer who uses only one (1) day of sick time from January 1<sup>st</sup> through June 30<sup>th</sup> shall receive an incentive payment of \$100; any officer who does not use sick time from July 1<sup>st</sup> through December 31<sup>st</sup> shall receive an incentive payment of \$250 **OR** four (4) hours of compensatory time; any officer who uses only one (1) day of sick time from July 1<sup>st</sup> through December 31<sup>st</sup> shall receive an incentive payment of \$100. Such compensatory time must be used within the next six (6) months of earning said time. This incentive payment shall not affect an officer’s hourly rate for overtime purposes. Payment shall be made within sixty days of the end of the calculation period.

## **ARTICLE 8 – LEAVES OF ABSENCE**

### **SECTION 8.1 – BEREAVEMENT LEAVE**

A leave of absence with pay, not to exceed three (3) consecutive days, shall be allowed for any police officer who is necessarily absent from duty because of a death of an immediate member of the officer's family. The immediate family of an officer shall include: brother, sister, spouse, child, father, mother, grandparent, spouse's grandparent, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law or a person occupying the position of a parent of the officer or his spouse, to qualify for such leave with pay. The officer shall be paid for his regularly scheduled work hours during such leave of absence. The officer must actually attend the funeral of the immediate member of the officer's family, unless the officer furnishes an excuse satisfactory to the Chief of Police. The officer shall be expected to return to work the day after the funeral. This leave of absence shall only be allowed at the time for the death of said relative. The absence may, at the discretion of the Chief of Police, be extended to five (5) days under circumstances where additional time is required to attend the funeral, or where such circumstances exist, which require such additional time-off. In the event that such death in the family occurs when the officer is on vacation, the officer will be granted three (3) days off as bereavement leave. This also shall apply if the officer is off on the officer's five (5) day holiday leave. Immediate family shall also include a step-child.

### **SECTION 8.2 – ACCUMULATED SICK TIME**

Each police officer shall be allowed sick leave in the event of illness. Each officer will accumulate one and one-half days per month to a maximum of 676 days in 2001, which shall be increased by 22 additional days each year thereafter.

### **SECTION 8.3 – SICK BANK**

In order to aid officers who have suffered prolonged illness and whose regular sick leave has been exhausted, a sick bank has been established January 1, 1978.

1. Officers who elect to join the sick bank must contribute two (2) accumulated sick leave days from the officer's current accumulated sick leave within 30 days of the time the police officer becomes eligible to become a participant.
2. The Town will add to the sick bank one (1) sick day for each officer who joins the bank as provided above.
3. Each year after joining, a member of the sick leave bank must contribute one (1) sick day between January 1<sup>st</sup> and January 31<sup>st</sup> in order to continue

as a participant in the sick leave bank. Provided that there are at least 700 days in the sick leave bank, an officer who has participated in the sick leave bank for ten (10) or more years shall not be required to contribute one (1) sick day in order to participate in the sick leave bank. (Officers who have ceased participation in the sick leave bank may buy back into the sick leave bank by contributing one (1) day for each year that he or she failed to participate. This option must be exercised within one (1) month of the execution of this agreement.)

4. If, at any time, the accumulated number of days in the sick leave bank falls below 150 days, the Town will contribute a sufficient number of days to bring the total of accumulated sick days in the sick leave bank to 150 sick days.
5. Each officer who elects to participate and who is otherwise qualified must consent, in writing, between January 1<sup>st</sup> and January 31<sup>st</sup> each year. Officers who become qualified after January 31<sup>st</sup> in any year shall submit their intention, in writing, within 30 days after the time the officer became qualified to participate and thereafter will submit their intention, in writing, between January 1<sup>st</sup> and January 31<sup>st</sup> each year.
6. Officers who enter the sick leave bank after January 1979, and who have been previously qualified to participate, will be required to contribute the same number of accumulated sick days as they would have contributed had they become a participant when first qualified to enter the sick leave bank.
7. A police officer who is a participant in the sick leave bank and who has used all of his accumulated sick leave, vacation time and personal leave and who has been on sick leave (paid or unpaid) for more than 30 continuous days, may apply for additional sick leave from the sick leave bank created herein to a committee consisting of the President of the Club and the current Supervisor of the Town.
8. A police officer may be allowed sick leave of absence, debited from the sick leave bank, provided the committee consents to the application.
9. In the event both members of the sick leave bank committee do not agree to accept or reject the granting of such sick leave, then in that event, the committee shall select a third person in accordance with the procedure for the selection of an arbitrator as is provided in the Grievance Procedure in this Agreement. The decision of the sick leave bank committee shall be final and binding upon both the Town and the applicant.
10. The Town will provide the Club with an accounting of the number of accumulated sick days in the sick leave bank by February 15<sup>th</sup> each year.

11. If the sick leave bank is discontinued, unused sick days shall be equally distributed to those members of the sick leave bank who are members at that time.

#### SECTION 8.4 – SICK LEAVE UPON RETIREMENT

##### A. One Year Option

1. One year prior to retirement a police officer may convert the officer's accumulated sick leave days into value upon written application signifying an intention to retire and identifying the date upon which the officer intends to retire, on a form provided by the Town
2. Upon receipt of such notification the Town Board will convert said accumulated sick leave into value by taking the actual cash value of the accumulated sick days and multiplying by the rate of 60%. The resulting sum shall be paid to the officer at the officer's option exercised in writing as follows:
  - a. The sum shall be paid to the officer as part of the officer's final year salary by dividing the sum by the number of pay periods so as to allow for equal distribution over the officer's last year of employment, or
  - b. The sum shall be paid to the police officer on the date of the officer's retirement
3. In determining the number of days, which an officer may convert into value, each officer may retain not more than 30 days of sick leave for use in the last year of employment.

##### B. Three Year Option

1. Three (3) years prior to retirement a police officer may convert the officer's accumulated sick leave days into value. Upon written application signifying an intention to retire and identifying the date upon which the officer intends to retire on a form provided by the Town.
2. Upon receipt of such information, the Town Board will convert said accumulated sick leave into value by taking the amount of accumulated sick leave days, then multiplying by the rate of sixty percent (60%) and then paying out at the applicable wage rate over the next thirty-six (36) months as set forth in subparagraph (a)

above. (It is understood that the sick leave will be bought back at the rate that the employee is earning in the year of collection, which will include negotiated wage increases.)

C. Less Than One Year

1. If an officer notifies the Town Board of the officer's intention to retire and the notice is given less than one year prior to the date of retirement, the Town Board shall convert the officer's accumulated sick days into value in accordance with the following formula:
  - a. If the notice exceeds six months, the conversion shall be in accordance with paragraph 2a above;
  - b. If the notice is for a period of six months or less, the officer's accumulated sick leave shall be converted into value in accordance with paragraph 2b.

D. In the event an officer has been paid the value of accumulated sick leave and does not retire on the date identified on the application for sick leave conversion, the officer shall have the options of obtaining repayment as follows:

1. repay the Town in total within thirty (30) days of the intended date of retirement; or
2. repay the Town through payroll deduction over the next twelve (12) months

The Officer must notify the Town of the option that the officer is electing within five (5) days of the intended retirement date. In the event that the officer does not express his/her selected position to the Town, the Town shall select the method of repayment. As the officer makes restitution to the Town, the Town shall return accumulated sick leave days to the officer's credit at the current rate of pay. Any officer who has converted his/her sick time once, regardless of whether he/she has repaid the Town, shall not have the option to convert his/her sick time again.

E. If an officer dies before retirement, the value of accumulated sick leave shall be paid to the officer's estate, in accordance with the formula in paragraph 2 above.

SECTION 8.5 – GENERAL MUNICIPAL LAW §207-C POLICY & PROCEDURES

**A. INTENT**

1. In order to insure that determinations arising by virtue of the administration of the provisions of §207-c of the General Municipal Law (GML §207-c) satisfy the interests of both police personnel and the Town of West Seneca, the following procedures shall be utilized to make determinations in regard to benefits authorized by GML §207-c
2. the parties hereto specifically recognize that this policy is not intended to, nor does it address or concern any rights or benefits available under Workers' Compensation Law. The parties recognize and acknowledge that any benefit accruing under Workers' Compensation is separate and distinct from benefits accruing pursuant to GML §207-c
3. this procedure is intended to be a supplement to administer the express language of GML §207-c and is not intended to reduce any benefits pursuant to GML §207-c, including any benefits yielded by the statute subsequent to the enactment of this policy
4. the terms "employee" or "police officer" as used herein, shall include all full-time uniformed and non-uniformed members of the Town of West Seneca Police Department, regardless of rank or assignment

**B. NOTICE OF ILLNESS/INJURY**

1. A police officer who claims a right to benefits under §207-c of the General Municipal Law, either because of a new illness or injury or the recurrence of a prior illness or injury, shall make application for the same in the form of a "Town of West Seneca Police Department General Municipal Law §207-c Application" either personally or through his/her representative. Application shall be made within ten (10) working days of the employee's discovery that an illness or injury has occurred. Whenever possible, application shall be made on the form, which is made a part of this procedure. Such application shall also include the following

documents: (1) "Limited Medical Authorization", and (2) "New York State Retirement System Notice of Illness/Injury". The employee should retain copies of each document filed for his or her own records. The employee shall report all new illnesses/injuries or recurrences of illnesses/injuries even if (s)he suffers no lost work time and/or requires no medical treatment as a result thereof. The employee shall have the continuing right to supplement or amend his/her notice and application with any information obtained subsequent to the filing of such notice and application. Failure to file the application within fifteen (15) working days shall result in the denial of the claim; however, the failure to file in the time period provided may be excused by the Chief for good cause shown. Any dispute arising over an alleged failure of the employee to notice and application within the time limits set forth herein shall be subject to the "Dispute Resolution Procedure" of this policy, *infra*.

2. The employee shall provide authorization in a form of a medical release per the attached "Limited Medical Authorization" for the Chief to obtain copies of his/her medical records for treatment from his/her treating physician or other health care provider. The authorization shall be limited to the injury or illness giving rise to the claim for GML §207-c benefits, and it shall reference the date of the occurrence of the illness or injury. The Chief of Police will provide the employee, without cost, a copy of the records and reports produced by any physicians or other experts who examine the employee on behalf of the Town.

3. Confidentiality

Medical authorizations and/or medical records provided by the employee or the employee's treating and/or Town's examining physician shall be used solely by the Town to carry out its rights and obligations under GML §207-c, administering the contractual §207-c procedures, or where release is authorized or required by law. Such authorizations and/or medical records shall be kept and maintained strictly confidential and shall not be disclosed to or discussed with any persons other than the Chief or designee and other persons directly involved in and responsible for making or assisting in the making, and/or litigating determinations of eligibility for GML §207-c benefits. Toward that end, such records and/or documentation shall be placed in a sealed envelope, delivered to the Chief or designee and maintained in a medical file which is separate and distinct from the employee's personnel file. If necessary in order to make a determination as to eligibility for §207-c benefits or return to light or full duty, the Town may



examine the medical records and/or documentation received; however, such inspection shall be conducted in private and outside the presence of other Departmental personnel and third parties. After the Town's examination of the records and/or documentation is completed, the records and/or documentation shall be placed back and maintained in a secure manner. If production/disclosure of these medical records to others is required or authorized by law or legal process, the Town will provide prior written notification to the employee listing the records to be released and to whom the records are to be released. Access without the employee's consent by any other individuals will be considered a breach of the Town's contractual obligation to keep such records confidential. Any employee for whom such a §207-c file is maintained shall have access to his/her file upon his/her request. Access to the same shall not be unreasonably denied.

**C. STATUS PENDING DETERMINATION OF ELIGIBILITY FOR BENEFITS**

1. The employee shall be placed on sick or other available accrued leave pending determination of eligibility for §207-c benefits. In the event that the employee is denied §207-c eligibility and the employee appeals this denial, and after appealing the denial, the denial of benefits is reversed, the Town will reimburse the officer in time, for the sick or other leave utilized. Should the Town fail to make a determination within fifteen (15) business days, the employee shall be placed on interim §207-c leave until such time that the Town makes a determination. In the event that, after hearing the employee is found ineligible for §207-c leave, the employee will reimburse the Town for any interim §207-c leave advanced under this section.
2. In the event that it is determined that the employee is found not to be entitled to §207-c benefits, he/she will be permitted to use sick leave, vacation, personal leave, compensatory time or other leave time available provided he/she remains medically unable to perform the duties of his/her position.

**D. BENEFIT DETERMINATIONS**

1. The Town shall promptly review an employee's application for §207-c benefits and shall make an initial determination of his/her eligibility within fifteen (15) business days after the submission of the application pursuant to this policy. "Submission" shall be deemed complete upon delivery of the application to the office of the Chief of Police or his designee.

2. In determining the application the Town may require a more detailed statement from the employee than that contained on the application. The Town may take statements from witnesses and may send the employee to a physician or physicians of its choice for examination at the Town's expense.
3. The determination of the Chief will be made in writing to the employee, setting forth the basis for the determination. In the event that the application is denied, the Chief will simultaneously provide the employee, without cost, a copy of all medical information produced or acquired by it, in connection with the application and determination for §207-c benefits. The Town will continue to provide the employee with additional medical information subsequently produced.

**E. MEDICAL BENEFITS**

Consistent with its obligations under the statute, the Town shall not reasonably withhold or deny approval for medical treatment, medications, surgeries, medical equipment, therapy, or other medical care necessitated by illness or injuries under GML §207-c. The Town shall make every effort to ensure that providers of medical services and supplies are timely compensated for the same.

**F. ASSIGNMENT TO LIGHT DUTY**

As authorized by the provisions of Subdivision 3 of §207-c, the Town, acting through the Chief, or designee, may assign a disabled employee specified light duties, consistent with his/her status as a police officer. The Chief, or designee, prior to making a light duty assignment, shall advise the employee receiving benefits under §207-c that his/her ability to perform a light duty assignment is being reviewed.

Such an employee may submit to the Chief, or designee, any document or other evidence in regard to his/her disability. The Chief, or designee, may cause a medical examination or examinations of the employee to be made at the expense of the Town. The physician selected shall be provided with a list of types of duties and activities associated with a proposed light duty assignment and shall make an evaluation as to the ability of the disabled employee to perform certain duties or activities, given the nature and extent of the disability. A copy of the proposed light duty description shall be simultaneously delivered to the employee.

Upon review of the medical assessment of the employee's ability to perform a proposed light duty assignment and other pertinent information, the Chief, or designee, may make a light duty assignment if consistent with the medical assessment performed. An employee ordered to light duty shall be provided with a copy of the detailed light duty statement and the medical report supporting the order to light duty. Any employee assigned to light duty shall not wear a uniform or carry a weapon as part of the assignment.

In the event the employee provides medical documentation to contest the light duty order, the benefits of §207-c will continue until a hearing pursuant to this Policy is held. It is understood that assignment to light duty is temporary and that an officer so assigned does not have any entitlement to a continued light duty assignment for an indefinite duration of time. In no event shall the officer be held in such light duty assignment for a period of more than one (1) year and six (6) months. Officers on light duty shall not be allowed to work overtime in such position. Nothing contained herein shall require the Department to create light duty assignments.

#### **G. OUTSIDE EMPLOYMENT**

If, as a result of an investigation, the Chief or his/her designee determines that an officer has engaged in paid outside employment that is inconsistent with the officer's physical restrictions as provided to the Town in connection with or in support of a claim for §207-c benefits while simultaneously receiving benefits pursuant to §207-c, from the Town, the Chief or his/her designee shall provide written notice of such determination. The notice shall specify in detail any and all reasons and the factual basis for those reasons for the determination. The officer may appeal the determination pursuant to section 8.5 (I). The arbitrator shall have the authority to determine the amount of benefit to be reimbursed, if any, and direct the manner in which such reimbursement shall be made. The officer must provide the Town, upon request, with a W-2 form or tax returns or other proof other than sworn statements. The officer may redact irrelevant information from the income tax information requested by the Town, e.g., spousal income. Additionally, the officer may be subject to disciplinary action.

#### **H. TERMINATION OF BENEFITS**

1. Salary or wages provided by §207-c of the General Municipal Law shall terminate upon the employee being retired pursuant to a service retirement, an accidental disability retirement, or a performance of duty disability retirement, as set forth in the

Retirement and Social Security Law, upon the effective date of the retirement.

2. Any other attempt to terminate benefits or claim of waiver of benefits will be subject to review pursuant to the “Dispute Resolution Procedure” of this Policy prior to termination of benefits. In the event the Town determines to terminate or deny benefits, it will notify the employee of this determination and set forth the reasons therefore in writing. In the event that, following a hearing, it is determined that benefits should have been terminated, the employee must reimburse the Town for all §207-c leave taken from the date of the Town’s notice to the employee of intention to terminate benefits or to a date specified by the arbitrator.

#### **I. DISPUTE RESOLUTION PROCEDURE**

1. In the event that the Town denies an application for §207-c benefits, seeks to discontinue §207-c benefits for any reason, seeks to deny medical treatment, medications or devices, or there is a dispute about whether the employee is capable of performing a specific light duty assignment, the matter will be submitted directly to an arbitrator mutually selected by the parties as provided in **ARTICLE 4** of the collective bargaining agreement.
2. The determination of the arbitrator shall be consistent with New York State Law, and shall be final and binding on the Town and the employee, but shall not preclude further review at a subsequent date based upon new or supplemental medical or other information. No arbitrator appointed under the provisions of this procedure shall have the power to amend, modify or delete any provision of this agreement, or to render a determination contrary to the laws of the State of New York.
3. The Town and the employee will divide the cost of the arbitration equally. Any transcript or medical testimony will be paid for by the party requesting such transcript or calling such medical witness. The parties will provide for exchange of all necessary and relevant medical information prior to hearing.

#### **J. DISABILITY RETIREMENT**

Consistent with §207-c, the Town may file an application on the employee’s behalf for retirement under Sections 363 or 363-c of the New York State Retirement and Social Security Law. The Town will notify the employee that such an application is being made. The

employee shall receive copies of any documents forwarded to the Retirement System.

**K. THIRD PARTY REIMBURSEMENT OF BENEFITS**

1. In the event that a claim is made or a lawsuit is filed against a third party who has allegedly caused the illness or injury for which an employee receives §207-c benefits, the Chief or his designee shall immediately be notified of such claim.
2. In the event the employee makes a claim or commences a lawsuit such as hereinbefore described, the §207-c benefits wages paid in excess of Workers' Compensation, or in excess of \$2,000.00 per month when no fault applies, shall be included as money damages.
3. In the event an employee fails to provide notice of such claim and settles with the third party, prejudicing the right of the Town to seek reimbursement, a lien against such third party recovery shall accrue to the Town for any §207-c benefits paid as hereinbefore described.

**L. CONTINUATION OF CONTRACT BENEFITS**

An employee receiving benefits pursuant to §207-c shall suffer no diminution of any contractual benefits.

SECTION 8.6 – PERSONAL LEAVE

Each police officer shall be entitled to four (4) personal leave days each year, which shall be applied for in writing.

Personal leave days may be accumulated and used to extend accumulated sick days beyond the limitations, herein, set forth. Personal leave days shall be granted in chronological order and shall not be taken in units of less than one-half working day.

Personal leave applications will not be denied unless the absence of the officer or officers, who requested the personal leave, would impair the operation of the police department.

The Town will allow each officer to use one (1) undeniable Personal Leave day each year which cannot be denied because the use of that day will result in overtime. Further, no undeniable PL Days may be used on any holiday as identified in Section 7.5. Only one officer may use an undeniable Personal Leave day per shift per day, on a first come first serve basis. The denial of the use of personal leave days shall be subject to the grievance procedure.

## SECTION 8.7 – MATERNITY LEAVE

If an officer is unable to perform her regular duty assignment due to pregnancy, and her physician certifies that she is able to perform light duty which does not include road patrol, she shall notify the Chief or his designee and provide medical verification. If the Chief determines that light duty is available she shall be so assigned.

If the Chief decides that light duty is not or is no longer available, or if the pregnant officer's physician certifies she can no longer perform light duty, she will be eligible to be placed on sick leave.

When her physician determines that she is able to return to regular duty she shall return to her former position if it has not been abolished.

## SECTION 8.8 – JURY DUTY

Any officer who is required to report for jury service shall be released from his or her scheduled shift for each day of jury service and shall be paid for that shift by the Town.

If an officer is required to report for jury service on a date that he/she is not scheduled to work for the Town, the town shall not compensate the officer for that day.

If an officer has been required to report for jury service for five (5) consecutive days and that officer is scheduled to work both Saturday and Sunday for the Town, that officer may use a vacation, personal, or compensatory time off day for either that Saturday or Sunday, but not both. In that situation, the day off request for one of the two (2) weekend days will not be denied by the Town except in case of an emergency.

## **ARTICLE 9 – DISCIPLINE**

### SECTION 9.1 – RECORD OF DISCIPLINE

A police officer will be given a copy of any warning, reprimand, suspension or other disciplinary action entered into the officer's personnel record within three (3) days of the action taken.

### SECTION 9.2 – UNFOUNDED COMPLAINTS

No record or reference to a complaint, either departmental or external, lodged against a police officer, shall be entered into the officer's personnel record if, after investigation, such complaint is decided by the Town to be unfounded.

SECTION 9.3 – CITIZEN’S COMPLAINTS

A police officer that has a complaint lodged against the officer, which if true, would not constitute a violation of New York State Penal Law or of any other penal law or criminal code, by a citizen, shall have the substance of the complaint presented to the officer in writing.

SECTION 9.4 – DISCIPLINE

Procedures for Discipline

An officer may be disciplined for just cause. An officer who has been disciplined or discharged may file a signed, written grievance challenging the action taken with the Chief of Police or his designee. Said grievance shall be filed within thirty (30) calendar days exclusive of the date the disciplinary action is taken. Such grievance shall be treated as a Step 2 grievance as is set forth in the grievance procedure contained in this Agreement and shall be reviewed in accordance with the procedures set forth herein. If the decision resulting from the grievance procedure is unacceptable, the PBA may utilize the arbitration procedure as provided for in this Agreement. Except as otherwise provided above, the grievance and arbitration procedure time limits as outlined in ARTICLE 4 of the Agreement shall be complied with.

The foregoing sets forth the sole and exclusive discipline and discharge procedures covering all bargaining unit employees.

**ARTICLE 10 – VACATIONS**

SECTION 10-1 – ANNUAL VACATION

Each police officer shall be entitled to an annual vacation, with pay, on a calendar year basis as follows:

<b>SERVICE</b>	<b>VACATION TIME</b>
After 1 year	10 days
After 5 years	15 days
After 10 years	20 days
After 18 years	25 days

In addition to the above, at the end of twenty-one (21) years of service, each police officer shall be granted one additional day of annual vacation for each year of service until the officer reaches thirty (30) days at the end of twenty-five (25) years of service.

## SECTION 10.2 – VACATION SCHEDULING

Vacations, whenever practicable, shall be granted at the time requested by each police officer. The Chief of Police will have the sole discretion to designate the number of police officers who may be on vacation at the same time and seniority, when possible, shall determine the vacation schedule.

## SECTION 10.3 – ACCUMULATED VACATION

Notwithstanding any other provision of law, each police officer shall be entitled to be paid, at the time of retirement from the Town service, the monetary value of unused vacation time standing to the officer's credit on the date of retirement. In the event of death in service of a police officer, payment shall be made to the officer's beneficiaries.

## SECTION 10.4 – VACATION PAY ADVANCE

Upon written request made at least two weeks prior to the first date of vacation time, a police officer will be paid the estimated amount due him for his vacation time period and shall be paid such sum no later than the Friday before he begins his vacation.

## SECTION 10.5 – ONE-DAY VACATION

Each police officer may retain one week of vacation, which the officer will be permitted to use in units of one day at a time during the course of the vacation year. The one week of vacation, utilized one day at a time is not in addition to any other vacation time that the officer may utilize one day at a time.

Each officer may use a second week of vacation in one-day increments, subject to manpower requirements. Utilization of a second week of one-day increments must be at other than prime vacation time.

Each officer may utilize vacation days in half-day increments subject to the prior approval of the Chief of Police.

## SECTION 10.6 – LIEUTENANTS' SUMMER VACATION

Each lieutenant, both patrol and desk, in the utilization of first selection for vacation in the vacation bidding process will be given the opportunity, with said first selection, to select one week during the months of July or August. If, at the time of a lieutenant's first selection a July or August week is not otherwise encumbered by selection of another lieutenant, in order to avail him/herself of this guarantee, such lieutenant must select the available week. If at the time a lieutenant is making the lieutenant's first vacation selection, and in the event there are no open or available weeks during July or August, then in that event, the Town guarantees that said lieutenant would be given the opportunity to be granted one week off during the months of July or August.



SECTION 10.7 – PAY FOR VACATION

An officer, upon written notice to the Chief given between December 1<sup>st</sup> and December 10<sup>th</sup> of each year, may elect to take cash in lieu of up to five (5) vacation days each year. Payment shall be made within thirty (30) days of the officer's submission of his written notice.

**ARTICLE 11 – INSURANCE**

SECTION 11.1 – HEALTH INSURANCE

**A. TRADITIONAL COVERAGE**

The town shall provide the option, for each police officer, of Blue Cross and Blue Shield Select, 42-43, 60-61 coverage or equivalent coverage. Such coverage shall include unlimited major medical coverage with a \$50.00 individual deductible (\$100.00 family deduction), Rider 8, Dependent coverage to Age 23, Psychiatric Rider 21, Cosmetic Rider 45, Pre-existing Condition Waiver Rider 47, and Out of Area Rider 48. In the event that Blue Cross and Blue Shield discontinue its Select, 42-43, 60-61 coverage, the Town shall replace that coverage with that plan's replacement coverage as offered by Blue Cross and Blue Shield. Should such replacement plan be less expensive to the Town than the Blue Cross and Blue Shield Select plan, the difference in the premium cost may be used to purchase any available riders agreed to by the parties.

Upon the implementation of a single carrier health insurance plan by the Town, the Town shall fund an IRC 105 (h) plan for employees choosing traditional coverage in the sum of \$1,500.00 for employees with family coverage and \$750.00 for employees selecting single coverage. This amount shall be prorated for 2007. The Town shall have the right to administer and design the Plan, however, it agrees to consult with the Club in the design of the Plan. This amount shall not be considered in the calculation of the premium for Traditional coverage.

**B. POS COVERAGE**

The Town shall provide, in lieu of the standard Blue Cross and Blue Shield Select coverage contained in Section 11.1, a Point of Service (POS) Plan with \$5/\$10 office visit co-payments, Alcohol and Substance Abuse Rider, Extended Medical Care Rider, Dependent

Coverage to age 19, 23/25, three-tier prescription co-payment of \$1/\$10/\$25 (with no co-payment for generic prescriptions, one co-payment for 90 day supply through mail order), out of network benefits with a \$250/\$500 deductible, 80/20 co-payment and \$2,000/\$4,000 out of pocket maximum, \$0 ambulance, \$35 Emergency Room, Vision Rider, LASIK (\$400 per eye) option, and Well Flex benefit. The option to participate in the POS plan shall only be available during the Town's open enrollment period.

It is understood that the availability of these plans is contingent upon whether it is made available for purchase to the Town by the carrier. In the event that an insurer discontinues the coverage provided, the Town shall replace that coverage with that plan's replacement coverage as offered by the insurer. Should such replacement plan be less expensive to the Town than the old POS plan, the difference in premium cost may be used to purchase any available riders agreed to by the parties.

### **C. EMPLOYEE CONTRIBUTIONS**

1. All members hired prior to ratification of the 2017-2020 CBA will contribute to Health Insurance, for the length of the CBA, as follows:

a. Family Plan:

1. 2017 - \$550 annual contribution
2. 2018 - \$600 annual contribution
3. 2019 - \$650 annual contribution
4. 2020 - \$700 annual contribution

b. Single Plan:

1. 2017 - \$275 annual contribution
2. 2018 - \$300 annual contribution
3. 2019 - \$325 annual contribution
4. 2020 - \$350 annual contribution

2. Traditional Coverage – Special Circumstances:

Any employee (not retiree) that selected POS coverage shall have an opportunity to obtain traditional coverage during any open enrollment period, without cost to that employee as long as the employee is selecting Blue Cross and Blue Shield for any of the following reasons:

- a. The employee has a family member covered by the employee's medical coverage that is leaving or has left the geographical area covered by the POS Plan.
  - b. Request of any employee to move to Blue Cross and Blue Shield Select coverage will be granted for serious medical conditions other than provided by the POS. The Town Comptroller will review these requests on a case-by-case basis. If the employee does not agree, the matter may be submitted as a grievance pursuant to **ARTICLE 4** of the Collective Bargaining Agreement.
- D. To the extent that any plan adopts a three (3)-tier prescription drug rider, the Town will self-insure the difference to a \$5.00 co-pay.
- E. The Town shall have the right to purchase coverage from the existing health insurance providers with higher co-pays and/or deductibles and to self-insure the difference to the existing levels. For those employees required to contribute to the premium cost of coverage, the percentage contribution shall be based upon the premium charged by the carrier for the existing co-pay and deductible levels.
- F. If the Town is able to obtain equivalent or better coverage through another provider or through self insurance or experience rating with a single carrier, the town shall have the right to substitute providers; provided that the Town first obtains approval from a joint committee composed of two members of management and two members of the Club. If the joint committee disagrees as to the issue of equivalent coverage, either party may submit the issue to arbitration as set forth in **ARTICLE 4**. The new coverage must be approved as equivalent by the Arbitrator prior to the implementation of the new coverage.
- G. **HEALTH AND WELFARE**

Effective January 1, 2012, the Town will pay the West Seneca Police Benevolent Association, Inc. Health and Welfare Fund, by January 15<sup>th</sup> of each year, the sum of one thousand two hundred twenty five dollars (\$1,225.00), multiplied by the number of police officers as of January of each year of this agreement.

## H. **ALTERNATIVE TO COVERAGE**

Any police officer or retiree who is eligible for coverage and who elects not to have health insurance from the Town shall receive thirty percent (30%) of the Town's share of the monthly premium for single coverage under the least expensive plan per month if (s)he is eligible for single coverage, and thirty percent (30%) of the Town's share of the monthly premium for family coverage under the least expensive plan per month if (s)he is eligible for family coverage. The officer shall receive these payments on a monthly basis; however, the retired member shall receive a lump sum check no later than December 15<sup>th</sup> of that benefit year.

### SECTION 11.2 – HEALTH INSURANCE UPON RETIREMENT

Police officers hired before January 1, 2017 who retire after ratification of this Agreement with a New York State service or disability pension, prior to reaching age sixty-five (65), shall have the option of participating in the Blue Cross and Blue Shield Select (POS) 201 Plan provided for in this Agreement at no cost to that retiree.

Police officers hired on or after January 1, 2017 who retire after ratification of this Agreement with a New York State service or disability pension, prior to reaching age sixty-five (65), shall have the option of participating in the Blue Cross and Blue Shield Select (POS) 201 Plan provided for in this Agreement provided, however, that any such police officer shall be required to annually contribute to the cost of such coverage, upon retirement, an amount equal to the amount such officer contributed annually to the cost of said officer's health insurance in his/her first year of employment.

Any officer shall have the option of participating in Blue Cross and Blue Shield Traditional Select coverage (with the Town funding an IRC 105 (h) plan for those retirees choosing traditional coverage in the annual amount of \$1,500.00 for family coverage and \$750.00 for single coverage [prorated for partial years]) or a Preferred Provider Organization (PPO) Plan and shall pay one hundred percent (100%) of the difference in cost between the premium for Blue Cross and Blue Shield or PPO Plan and the premium for the POS Plan.

Police officers hired on or after January 1, 2017 who retire after ratification of this Agreement with a New York State service or disability pension, prior to reaching age sixty-five (65), shall have the option of participating in the Blue Cross and Blue Shield Traditional Select coverage (with the Town funding an IRC 105 (h) plan for those retirees choosing traditional coverage in the annual amount of \$1,500.00 for family coverage and \$750.00 for single coverage [prorated for partial years]) or a Preferred Provider Organization (PPO) Plan

and shall be required to annually contribute to the cost of such coverage, upon retirement, an amount equal to the amount such officer contributed annually to the cost of said officer's health insurance in his/her first year of employment.

It is understood that there will be a three (3)-tier prescription co-payment for retiree coverage under all available plans for retirees prior to age 65 years, with a \$5 co-payment for generic drugs. For retirees under age sixty-five (65) years, the Town will reimburse for prescription co-payments in excess of \$5.00 for retirees or any of their dependents.

A retired member, upon reaching the age of sixty-five (65) years, must avail him/herself of coverage under Medicare Parts A and B, and the Town will provide the retired member with coverage under Blue Cross and Blue Shield Specialized PPO Plan (799) with an out of pocket maximum of \$1,000, \$75 allowance for Vision (lenses, frames) and \$75 allowance for Dental (cleanings). Should the retiree, upon the reaching of age sixty-five (65) years, not be eligible for coverage under this plan due to age, the provisions of this section shall be provided until such member becomes eligible for Medicare. For those officers who retire after January 1, 2007 and have retiree health insurance through the Town, upon reaching age sixty-five (65) (or whatever Medicare eligible age then in effect), the Town will reimburse the retiree for the cost of Medicare Part B for those retirees electing coverage under the 799 Plan. The town will also reimburse retirees up to \$1,400 per year for the cost of co-payments and deductibles. A retired member, hired on or after January 1, 2017 who retire after ratification of this Agreement with a New York State service or disability pension, shall be required to annually contribute to the cost of such coverage, an amount equal to the amount such officer contributed annually to the cost of said officer's health insurance in his/her first year of employment.

In the event that Blue Cross and Blue Shield Specialized PPO Plan (799) is no longer available from the Carrier, the parties agree to meet to negotiate the replacement coverage.

In the event that a retiree is not eligible for the Blue Cross and Blue Shield Specialized PPO Plan (799) because he/she resides out of state, the Town may substitute an alternate plan as long as the benefits are equivalent or better.

If after an officer has retired and is then able to secure other health insurance coverage equal or superior to the coverage contained herein, at no cost to the retired officer, the coverage provided herein shall terminate. If the retired officer has availed him/herself of other health insurance coverage, and after retirement said officer is no longer able to participate in that alternate health care program, or said coverage is either not equal to, or is inferior to, the

coverage herein provided, the retired officer shall be permitted to return to the group, in accordance with the formula established above.

### SECTION 11.3 – HEALTH INSURANCE FOR DEPENDANTS

The surviving spouse and/or dependants (as defined by Blue Cross and Blue Shield) shall be permitted to continue in the group health insurance program, provided by the Town, to the Town employees, at no cost to the Town, provided, however, that said participant shall pay to the Town the full cost of the premium of said health insurance at least one month in advance. The participation of the rights provided in this clause are subject to the provisions of the group plan presently in force and any modifications thereof shall control the administration of said plan.

If an officer dies while employed, health insurance shall be continued for the surviving spouse and dependants, without cost, for up to twelve (12) months, unless the spouse and/or dependants are otherwise eligible for coverage of if the spouse remarries. If an officer dies while employed and said officer has completed twenty (20) years of service with the Town, however, had not retired prior to his/her death, health benefits provided as per Article 11 shall continue (including any applicable employee premium contributions) for a period of five (5) years from the time of death for the spouse and dependants of the employee. Said coverage may be suspended during such time as he or she is provided with equivalent coverage or is remarried.

### SECTION 11.4 – LIABILITY OF POLICE OFFICER FOR NEGLIGENCE

The Town shall assume the liability to the extent that it shall save harmless any duly appointed police officer of the Town for any negligent act or tort, provided such police officer, at the time of the negligent act or tort, complained of, was acting in the performance of the officer's duties and within the scope of the officer's employment.

### SECTION 11.5 – PUNITIVE DAMAGES

The Town shall provide for the defense of any civil action or proceeding brought against a duly appointed police officer of the Town of West Seneca and it shall indemnify and save harmless, such police officer, from any judgment of a Court of competent jurisdiction, whenever such action, proceeding or judgment is for punitive or exemplary damages, arising out of a negligent act or other tort of such police officer, committed while in the proper discharge of his duties and within the scope of his employment.

## **ARTICLE 12 – RETIREMENT BENEFITS**

### **SECTION 12.1 – RETIREMENT PLANS**

The Town will continue to provide present retirement benefits pursuant to the provisions of the New York State Retirement and Social Security Law § 384, F, G and H (1-60<sup>th</sup> pension, after 25 years); the benefits under § 302, 9, d and § 341-k. It will also provide and maintain, pursuant to New York State Retirement and Social Security Law, the improved retirement benefits, pursuant to § 384 e and the improved career plan, pursuant to § 375 (i), thereof.

Any officer covered under the provisions of RSSL § 384 e on a non-contributory basis will continue to be covered on such basis.

### **SECTION 12.2 – DEATH BENEFITS**

The Town agrees to provide and maintain the guaranteed, ordinary death benefits, pursuant to § 360-b of the New York State Retirement and Social Security Law.

### **SECTION 12.3 – SECTION 457 PLAN**

The Town will provide a payroll deduction program for the police officer's benefit and for the police officer's participation in an Internal Revenue Code § 457 Plan. The Town and the Club agree that the Town's only expense in establishing and participating in the Plan will be the cost of the payroll deduction. Any additional cost or expense, in the establishment of the I.R.C. § 457 Plan, will be the cost and expense of the Club.

### **SECTION 12.4 – FLEXIBLE SPENDING ACCOUNTS**

The Town shall create and pay for the cost of administering a flexible spending account.

### **SECTION 12.5 – PRIOR SERVICE CREDIT**

In the event that the State Law provides that an individual may buy service credit prior to becoming an officer, at no cost to the Town, the Town will cooperate.

## **ARTICLE 13 – VACANCIES**

### **SECTION 13.1 – TRANSFERS AND ASSIGNMENTS**

The transfer and assignment of police officers will be the sole responsibility of the Town, subject to the provisions of this Agreement, and to the following:

- a. Civil Service examination and procedure, as set forth by the laws of the State of New York
- a. Qualifications for non-Civil Service, non-competitive job classifications and temporary work assignments, within the department, shall be established by the Town

### SECTION 13.2 – NEW CLASSIFICATIONS

The Town agrees that in the event it establishes new classifications, within this negotiating unit, the Town will furnish the Club with the new job descriptions and will confer and negotiate with the Club concerning the basic annual salaries for such classifications.

### SECTION 13.3 – NON-CIVIL SERVICE VACANCIES

When a vacancy exists in a non-competitive job classification or temporary assignment, notice of the existence of the vacancy will be conspicuously posted on a bulletin board in the police station for a period of ten (10) days. Police officers, of qualified rank, may affix their name, thereto, indicating a desire to be considered for the filling of such vacancy. The vacancy shall be filled by appointing a police officer that possesses the necessary qualifications and experience. Where the qualification and experience of two (2) or more candidates for the non-competitive position are equal, their respective seniority shall be the basis upon which the assignment is made.

When a vacancy exists, an officer is permitted to seek and obtain a demotion to a non-competitive position, as long as the officer possesses the necessary qualifications and experience.

### SECTION 13.4 – CIVIL SERVICE VACANCIES

The Town agrees to request, from the Civil Service Department, a new examination, to be held within 60 days after the expiration date of each promotional list. All existing promotional vacancies shall be filled, within a reasonable time, not to exceed 60 days from the time a vacancy exists and a promotional list is available.

### SECTION 13.5 – CIVILIANIZATION OF DESK LIEUTENANT POSITIONS

The Town may contract out work previously performed by Desk Lieutenants to an outside company or assign this work to employees outside of the unit.

The Town shall have the right to contract out or civilianize the functions previously performed by Desk Lieutenants, i.e. the Town shall have the right to subcontract the work to an outside company or assign the work to employees outside the bargaining unit.



## **ARTICLE 14 – MISCELLANEOUS PROVISIONS**

### **SECTION 14.1 – EXPENSES**

When a police officer is authorized to leave the Town limits on official duty, he shall be reimbursed for all actual, reasonable and necessary expenses incurred. Reimbursement for meals will be made only when the police officer is out of Town during normal meal hours.

The Town will provide and pay for all transportation of police officers while on official business. However, if an officer is required to use a personal vehicle, the officer shall be compensated at the prevailing rate, per mile, as established by the Town.

### **SECTION 14.2 – POSTING OF SCHEDULES**

All work schedules shall be posted at least ten (10) days prior to the effective date.

### **SECTION 14.3 – SPECIAL HOLIDAY**

Whenever a special holiday is declared by Town Board resolution, or by the Town Supervisor, such day shall apply to police officers.

### **SECTION 14.4 – DESK OFFICERS**

The Police Department shall make every reasonable effort to allow desk officers assigned to the desk a duty-free lunch period.

### **SECTION 14.5 – BILL OF RIGHTS**

(Preamble)

The provisions of this section shall not apply to criminal investigations or investigations of possible criminal activity or violation.

1. The interrogation of a police officer shall be conducted at reasonable hours, preferably when the officer is on duty, and if not on duty, then during daylight hours unless the exigencies of the investigation dictate otherwise.
2. A police officer, who is under investigation for a matter which would not constitute a crime, must be informed of the name of the officer in charge of the investigation and the names of the officers who will be conducting any portion of the interrogation or investigation.